


Having reviewed the Defendants’ Objections to Summary Judgment Evidence, the Court has determined that many of the objections are made in reference to evidence which Plaintiff Archer and White Sales, Inc. (“Archer”) contends is admissible under Fed. R. Evid. 801(d)(2)(E). Fed. R. Evid. 801, in conjunction with Fed. R. Evid. 104, requires the Court to make a preliminary determination about the existence of a conspiracy that would support application of the exemption

in Fed. R. Evid. 801(d)(2)(E). In order to streamline the determination of admissibility of evidence under such exemption, the Court will address this issue at the pretrial hearing set for January 22, 2020. Accordingly, the Court **ORDERS** that Archer be prepared to identify admissible evidence that supports application of Rule 801(d)(2)(E) to each Defendant or entity from whom Archer intends to proffer coconspirator statements.

**So Ordered this**

**Jan 20, 2020**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE